

REPORT / RECOMMENDATION



To: MAYOR & COUNCIL

Agenda Item #: VIII. C.

From: Scott Neal
City Manager

Action ☒

Discussion ☐

Date: December 17, 2013

Information ☐

Subject: Ordinance No. 2013-13 Temporarily Prohibiting Smoking Lounges And Vapor Lounges

Action Requested:

Adopt Ordinance No. 2013-13 including waiver of second reading.

Information / Background:

During the November 19 Work Session, City Council Members expressed concerns with the local regulation and regulatory authority over the use, sale and oversight of e-cigarettes. You directed me to confer with the City Attorney regarding the matter. You also asked me to direct the Community Health Committee to study the issue in order to advise the Council on future related policy.

I conferred with the City Attorney and shared a draft moratorium ordinance with the City Council at the December 3 Council meeting. The moratorium, if adopted by the City Council, will temporarily prohibit the establishment of “vapor lounges” and other similar facilities that are specifically designed for the sale and use of e-cigarettes and similar products. I have also advised the staff to the Community Health Committee about the matter and added the subject to the committee’s 2014 Work Plan.

The City Attorney and I will provide further explanation and address questions at the December 17 Council meeting.

Attachments:

Ordinance No. 2013-13

ORDINANCE NO. 2013-13
CITY OF EDINA
HENNEPIN COUNTY, MINNESOTA
AN INTERIM ORDINANCE TEMPORARILY PROHIBITING
SMOKING LOUNGES AND VAPOR LOUNGES
THE CITY COUNCIL OF EDINA ORDAINS:

SECTION 1. DEFINITIONS: The following terms when used in this ordinance shall mean:

E-cigarette means an electronic device that converts nicotine liquid into water vapor. The e-cigarette has three main parts: a battery, atomizer and cartridge.

Smoking lounge means a location licensed to sell tobacco products where:

- (a) Except for a bona fide sale of a smoking device, providing or otherwise making available for use by a customer, potential customer, or any other person a smoking device for the purpose of smoking any tobacco product;
- (b) Providing in exchange for a fee or any other consideration seating within or access to the indoor area of a tobacco products shop; or
- (c) Permitting within the indoor area the sampling of any tobacco product which was not furnished by the tobacco products shop on the date and at the time the sampling occurs.

Vapor lounge means a location that sells e-cigarettes where:

- (a) Except for a bona fide sale of e-cigarettes, providing or otherwise making available for use by a customer, potential customer, or any other person a device for the purpose of using an e-cigarette product;
- (b) Providing in exchange for a fee or any other consideration seating within or access to the indoor area of a shop that sells e-cigarettes; or
- (c) Permitting within the indoor area of a shop that sells e-cigarettes the sampling of any e-cigarette product which was not furnished by the shop on the date and at the time the sampling occurs.

Official Controls means ordinances and regulations which control the physical development of the City or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

SECTION 2. BACKGROUND: The City has not adopted specific Official Controls for Smoking Lounges and Vapor Lounges. There are substantial concerns that the current City zoning ordinance does not adequately address issues relating to such uses such as the appropriate locations and the conditions under which they may be allowed within the City, including compatibility with existing uses. As a result of the important land use and zoning issues cited above, the City will conduct studies for the purpose of consideration of possible amendments to the City's official controls to address the issues concerning such uses.

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SECTION 3. INTENT: It is the intent of this ordinance to allow the City of Edina time to complete an evaluation of Smoking Lounges and Vapor Lounges and to consider changes in the City's official controls necessary to protect the health, safety and welfare and in the interim to preserve the status quo.

SECTION 4. TEMPORARY PROHIBITION: Pending the completion of the above referenced study and the adoption of appropriate official controls, Smoking Lounges and Vapor Lounges are prohibited.

SECTION 5. EXEMPTIONS: The statutory exemption to this ordinance set forth in Minnesota Statutes § 462.355, Subd. 4 is incorporated herein by reference.

SECTION 6. EFFECTIVE DATE: This ordinance shall take effect immediately upon its passage and shall remain in effect until the date of the adoption of the official controls contemplated hereunder and the repeal of this ordinance or _____, 2014, whichever occurs first.

First Reading:

Second Reading:

Published:

Attest

Debra A. Mangen, City Clerk

James B. Hovland, Mayor